

ENTERED

December 29, 2016

David J. Bradley, Clerk

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

IDELFONSO GARCIA-BENITEZ,

Petitioner,
VS.

WILLIAM STEPHENS,

Respondent.

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CIVIL NO. 2:15-CV-511

ORDER

Petitioner Idelfonso Garcia-Benitez ("Garcia-Benitez") is an inmate in the Federal Bureau of Prisons, currently incarcerated in Beaumont, Texas. (D.E. 1.) Proceeding *pro se*, Petitioner filed this petition pursuant to 28 U.S.C. § 2254. The subject of the petition is a 2014 Kleberg County conviction for seven counts of felony murder and seven counts of aggravated assault. (D.E. 1). Petitioner alleges there were procedural defects in his state habeas case, he received ineffective assistance of counsel in his underlying criminal case, he did not understand his guilty plea, he was denied his rights under the Vienna Convention on Consular Relations, his trial counsel had a conflict of interest, the state lacked jurisdiction over the case, and he was denied due process because his trial counsel withheld his state case file. (See D.E. 1).

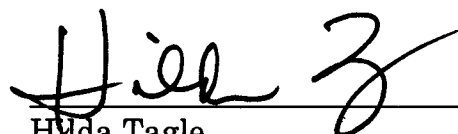
On April 20, 2016, Respondent filed a Motion for Summary Judgment. (D.E. 13). On June 27, 2016, Petitioner filed a Response to Respondent's Motion for Summary Judgment. (D.E. 18). On September 13, 2016, the Magistrate Judge to whom this case was referred issued a Memorandum and Recommendations ("M&R"). (D.E. 19). On October 3, 2016, Garcia-Benitez filed objections to the M&R. (D.E. 20). The Court reviews objected-to portions of a Magistrate Judge's proposed findings and recommendations de novo. 28 U.S.C. § 636(b)(1) ("A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings and recommendations to which objection is made.").

Here, the Magistrate Judge recommended that Respondent's Motion for Summary Judgment be granted, Garcia-Benitez's request for an evidentiary hearing be denied, and Garcia-Benitez's action for habeas corpus relief be dismissed. The Magistrate Judge's M&R details the applicable law and reasons for these recommendations in detail. See D.E. 19. The Magistrate Judge further recommended a Certificate of Appealability ("COA") be denied.

Garcia-Benitez objects to the M&R on the grounds that: (1) the M&R held that 28 U.S.C. § 2254(e) overrides the summary judgment rule that all disputed facts must be construed in the light most favorable to the nonmovant; (2) the state court's factual findings cannot be presumed correct because the state violated Garcia-Benitez's constitutional right to effective assistance of counsel; (3) Garcia-Benitez's plea was unknowing and involuntary because it was based on ineffective assistance of counsel, counsel's misrepresentations, and counsel's conflict of interest, and that the Magistrate Judge did not adequately focus on the ultimate legal conclusion reached by the state court in determining whether the state's adjudication of Garcia-Benitez's claim met the "unreasonable application" standard of 28 U.S.C. § 2254(d); (4) and the Magistrate Judge and the state court incorrectly held Garcia-Benitez to the same standards as a lawyer in pleading requirements. (D.E. 20 at 4-12).

Having reviewed the M&R, Garcia-Benitez's objections, and the applicable law, the Court adopts the Magistrate Judge's M&R in its entirety. Accordingly, it is hereby **ORDERED** that Respondent's Motion for Summary Judgment be **GRANTED**, Petitioner's request for an evidentiary hearing be **DENIED**, and Petitioner's action for habeas corpus relief be **DISMISSED**. The Court further **ORDERS** that the Petitioner's Certificate of Appealability be **DENIED**. The Court **DIRECTS** the Clerk to close this case after entering the accompanying judgment.

SIGNED this 29 day of December, 2016.


Hilda Tagle
Senior United States District Judge